

MARGARET A. MCLEATCHIE, Nevada Bar No. 10931
MCLEATCHIE LAW
602 South Tenth Street
Las Vegas, Nevada 89101
Telephone: (702) 728-5300; Fax: (702) 425-8220
Email: maggie@nvlitigation.com
Attorney for Plaintiff Mary Benson

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARY BENSON, an individual,
Plaintiff,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, in its official capacity; and,
BRET EMPEY, in his official capacity as
Sergeant of the Las Vegas Metropolitan
Police Department;
Defendants.

Case. No.: 2:19-cv-01949-RFB-VCF

**STIPULATION AND ORDER TO
EXTEND DISCOVERY
DEADLINES
(EIGHTH REQUEST)
[ECF No. 42]**

Pursuant to Fed. R. Civ. P. 16(b)(4) and Local Rule 26-4, Plaintiff MARY BENSON and Defendants LAS VEGAS METROPOLITAN POLICE DEPARTMENT and BRET EMPEY ("LVMPD Defendants"), by their respective counsel, hereby submit this *Stipulation and Order to Extend Discovery Deadlines (Eighth Request)* to request the Court to continue the pretrial and trial dates by sixty (60) days.

I. DISCOVERY CUT-OFF DEADLINES

A. The discovery cut-off date shall be rescheduled from November 29, 2021 to **January 28, 2022**;

B. The deadline for the disclosure of rebuttal experts and their reports shall be rescheduled from October 29, 2021 to **December 28, 2021**;

C. The deadline to file dispositive motions shall be rescheduled December 29, 2021 to **February 28, 2022**; and

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1 D. The deadline to file the Joint Pretrial Order shall be rescheduled from
2 January 28, 2022 to **March 30, 2022**. If dispositive motions are filed, the deadline for filing
3 the joint pretrial order will be suspended until thirty (30) days after decision on the dispositive
4 motions or further court order.

5 **II. REASON FOR THE REQUESTED EXTENSION**

6 Pursuant to Local Rule 26-4, the Parties submit that good cause exists for the
7 extension requested. The Parties have been diligently conducting discovery. Since January
8 2020, the Parties have propounded and responded to requests for written discovery; have
9 produced documents relating to liability issues; and have been working to coordinate
10 depositions.

11 The Parties acknowledge that, pursuant to Local Rule 26-4, a stipulation to extend
12 a deadline set forth in a discovery plan must be submitted to the Court no later than 21 days
13 before the expiration of the subject deadline, and that a request made within 21 days must be
14 supported by a showing of good cause. Here, the deadline for the disclosure of rebuttal expert
15 reports is currently October 29, 2021. Thus, the instant stipulation to extend the deadline for
16 rebuttal experts disclosures is untimely Further, the Parties acknowledge that this is their
17 eighth request and they had represented that they would not seek an extension of dates absent
18 extraordinary circumstances. The Parties have been working to move this case forward (for
19 example, Plaintiff provided her initial expert report and the Parties are working together to
20 schedule depositions. However, unanticipated and extraordinary circumstances have arisen.

21 Counsel for Defendants has been addressing significant medical challenges
22 involving a family member. Specifically, counsel's family member was recently diagnosed
23 with a terminal illness, which has required counsel to direct his attention to finalizing estate
24 planning and medical directive documents, as well as assisting with some caretaking duties.
25 Thus, good cause exists to extend the rebuttal expert deadline to allow sufficient time for
26 disclosure of any potential rebuttal expert(s).

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1 Furthermore, counsel for Plaintiff has several competing deadlines in other matters,
2 such as responding to a motion for summary judgment in a civil rights matter before the
3 federal court and submission of an opening brief and appendix in a public records matter
4 before the Nevada Supreme Court. After the departure of a senior attorney on short notice,
5 counsel for Plaintiff (whose firm is relatively small) has been working to hire and train
6 additional employees, including a new associate starting October 21, 2021, who will assist
7 with this case. Furthermore, counsel for Plaintiff will be out of the jurisdiction between
8 November 5, 20, and November 12, 2021.

9 Good cause and extraordinary circumstances thus exist to excuse this untimely
10 request. This brief extension is necessary to allow Defendants to disclose any rebuttal
11 expert(s), and to allow the Parties sufficient time to finish some limited remaining written
12 discovery and conduct depositions.

13 The Parties hereby agree that, absent extraordinary circumstances, they will seek
14 no further extensions of discovery in this matter.

15 **III. STATUS OF DISCOVERY EFFORTS TO DATE**

16 The following discovery has been completed to date:

17 1. LVMPD Defendants provided their Fed. R. Civ. P. 26.1 Production of
18 Documents and Witness List on January 6, 2020;

19 2. Plaintiff Mary Benson provided her Fed. R. Civ. P. 26.1 Production of
20 Documents and Witness List on January 7, 2020;

21 3. LVMPD Defendants propounded their First Set of Requests for Production
22 of Documents to Plaintiff Mary Benson on January 17, 2020;

23 4. Plaintiff Mary Benson responded to LVMPD Defendants' First Set of
24 Requests for Production of Documents on March 10, 2020;

25 5. Plaintiff provided her First Supplement to her Fed. R. Civ. P. 26.1
26 Production of Documents and Witness List on March 10, 2020;

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6. Plaintiff Mary Benson propounded her First Set of Requests for Production of Documents to Defendant Sgt. Bret Empey on March 13, 2020;

7. Plaintiff Mary Benson propounded her First Set of Requests for Production of Documents to Defendant Las Vegas Metropolitan Police Department on March 13, 2020.

8. LVMPD Defendants provided their First Supplement to their Fed. R. Civ. P. 26.1 Production of Documents and Witness List on May 11, 2020;

9. Defendant Sgt. Bret Empey responded to Plaintiff Mary Benson's First Set of Requests for Production of Documents on May 11, 2020;

10. Defendant Las Vegas Metropolitan Police Department responded to Plaintiff Mary Benson's First Set of Requests for Production of Documents on May 11, 2020;

11. Plaintiff provided her Second Supplement to her Fed. R. Civ. P. 26.1 Production of Documents and Witness List on February 23, 2021; and

12. Plaintiff provided her Third Supplement to her Fed. R. Civ. P. 26.1 Production of Documents and Witness List on September 29, 2021.

13. Plaintiff provided her Initial Expert Disclosures on September 29, 2021.

14. The Parties are working together to schedule depositions.

IV. DISCOVERY REMAINING

The Parties agree that the following discovery must be completed:

1. The deposition of Plaintiff;
2. The depositions of Defendants;
3. The depositions of witnesses;
4. The deposition(s) of the Defendants' Person(s) Most Knowledgeable;
5. The deposition(s) of rebuttal witness(es) designated by Defendants; and
6. Additional written discovery.

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V. CONCLUSION

Based on the above, requisite good cause exists to warrant an extension of the Scheduling Order (ECF No. 42) deadlines. Accordingly, the Parties respectfully request that this Court extend the current deadlines by sixty (60) days in order to allow all Parties to adequately complete discovery and to resolve present scheduling conflicts.

IT IS SO STIPULATED.

DATED this the 20th day of October, 2021. DATED this the 20th day of October, 2021.

MARQUIS AURBACH COFFING

MCLEATCHIE LAW

/s/ Nick D. Crosby

/s/ Margaret A. McLetchie

Nick D. Crosby, NBN 8996

Margaret A. McLetchie, NBN 10931

10001 Park Run Drive

McLetchie Law

Las Vegas, NV 89145

602 South Tenth Street

Email: ncrosby@maclaw.com

Las Vegas, NV 89101

Attorney for LVMPD Defendants

Email: maggie@nvlitigation.com

Attorney for Mary Benson

The following deadlines apply:

Rebuttal Experts 12-28-2021

Discovery Cut-off 1-28-2022

Dispositive Motions 2-28-2022

Joint Pretrial Order 3-30-2022

If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

IT IS SO ORDERED.



Cam Ferenbach

United States Magistrate Judge

DATED 10-20-2021